

AMENDED IN SENATE AUGUST 30, 2013

AMENDED IN SENATE AUGUST 12, 2013

AMENDED IN ASSEMBLY APRIL 18, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 971**

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**Introduced by Assembly Member Garcia**

February 22, 2013

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An act to amend Section 15975 of the Government Code, and to amend Sections 11105 and 13300 of the Penal Code, relating to public employment.

### LEGISLATIVE COUNSEL'S DIGEST

AB 971, as amended, Garcia. Public agency employers: paratransit providers: criminal history information.

Existing law requires the Attorney General to furnish state summary criminal history information to a city, county, city and county, or district, or an officer or official thereof, when that information is needed in fulfilling employment, certification, or licensing duties, as specified, subject to specified restrictions as to arrests or detentions that did not result in a conviction. Other provisions of existing law authorize the Attorney General to provide summary criminal history information to specified persons or entities for specified purposes. Existing law provides a similar provision with respect to authorizing a local public entity to receive local criminal history information.

This bill additionally would require the Attorney General to furnish, and would authorize a local criminal justice agency to furnish, summary criminal information to a specified social services paratransit agency

with respect to its contracted providers, and would further make technical, nonsubstantive, and conforming changes.

*This bill would incorporate additional changes in Section 11105 of the Penal Code made by SB 530, to become operative if SB 530 and this bill become effective on or before January 1, 2014, and this bill is enacted last.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 15975 of the Government Code is  
2 amended to read:

3 15975. (a) The transportation planning agencies and the county  
4 transportation commissions shall prepare and adopt an action plan  
5 that describes in detail the steps required to accomplish the  
6 consolidation of social service transportation services. Funding  
7 for the action plan shall be provided from local transportation funds  
8 made available under Chapter 4 (commencing with Section 99200)  
9 of Part 11 of Division 10 of the Public Utilities Code. The action  
10 plan shall substantiate that one or more of the benefits indicated  
11 in Sections 15951 and 15952 are feasible for the services in a given  
12 geographic area. The action plan shall include, but not be limited  
13 to, the following:

14 (1) The designation of consolidated transportation service  
15 agencies within the geographic area of jurisdiction of the  
16 transportation planning agency or county transportation  
17 commission. The action plan may designate more than a single  
18 agency or multiple agencies as consolidated transportation service  
19 agencies, if improved coordination of all services is demonstrated  
20 within the geographic area. In Ventura County, the county  
21 transportation commission is the consolidated transportation service  
22 agency.

23 The action plan may also specify that the consolidation of some  
24 services and the coordination of other services is the most feasible  
25 approach, at the time the action plan is submitted, which will  
26 provide improved efficiency and effectiveness of those services.

27 (2) The identification of the social service recipients to be  
28 served, of funds available for use by the consolidated or  
29 coordinated services, and of an orderly strategy and schedule

1 detailing the steps required to develop the financial program and  
2 management structure necessary to implement consolidated or  
3 coordinated services.

4 (3) Measures to coordinate the services provided under  
5 paragraph (1) with existing fixed route service provided by public  
6 and private transportation providers.

7 (4) Measures for the effective coordination of specialized  
8 transportation service from one provider service area to another.

9 (5) Measures to ensure that the objectives of the action plan are  
10 consistent with the legislative intent declared in Section 15951.

11 (b) An entity formed by the regional transportation planning  
12 authority as a nonprofit public benefit corporation, designated as  
13 a consolidated transportation services agency under this section  
14 and charged with administering a countywide coordinated  
15 paratransit plan adopted pursuant to Section 37.141 of Chapter 49  
16 of the Code of Federal Regulations shall, for the purposes of  
17 paragraph (2) of subdivision (e) of Section 14055 and Part 1  
18 (commencing with Section 810) and Part 2 (commencing with  
19 Section 814) of Division 3.6, be deemed a “public agency” within  
20 the meaning of “public entity,” as defined in Section 811.2.

21 SEC. 2. Section 11105 of the Penal Code is amended to read:

22 11105. (a) (1) The Department of Justice shall maintain state  
23 summary criminal history information.

24 (2) As used in this section:

25 (A) “State summary criminal history information” means the  
26 master record of information compiled by the Attorney General  
27 pertaining to the identification and criminal history of any person,  
28 such as name, date of birth, physical description, fingerprints,  
29 photographs, dates of arrests, arresting agencies and booking  
30 numbers, charges, dispositions, and similar data about the person.

31 (B) “State summary criminal history information” does not refer  
32 to records and data compiled by criminal justice agencies other  
33 than the Attorney General, nor does it refer to records of complaints  
34 to or investigations conducted by, or records of intelligence  
35 information or security procedures of, the office of the Attorney  
36 General and the Department of Justice.

37 (b) The Attorney General shall furnish state summary criminal  
38 history information to any of the following, if needed in the course  
39 of their duties, provided that when information is furnished to  
40 assist an agency, officer, or official of state or local government,

1 a public utility, or any other entity, in fulfilling employment,  
2 certification, or licensing duties, Chapter 1321 of the Statutes of  
3 1974 and Section 432.7 of the Labor Code shall apply:

4 (1) The courts of the state.

5 (2) Peace officers of the state, as defined in Section 830.1,  
6 subdivisions (a) and (e) of Section 830.2, subdivision (a) of Section  
7 830.3, subdivisions (a) and (b) of Section 830.5, and subdivision  
8 (a) of Section 830.31.

9 (3) District attorneys of the state.

10 (4) Prosecuting city attorneys of any city within the state.

11 (5) City attorneys pursuing civil gang injunctions pursuant to  
12 Section 186.22a, or drug abatement actions pursuant to Section  
13 3479 or 3480 of the Civil Code, or Section 11571 of the Health  
14 and Safety Code.

15 (6) Probation officers of the state.

16 (7) Parole officers of the state.

17 (8) A public defender or attorney of record when representing  
18 a person in proceedings upon a petition for a certificate of  
19 rehabilitation and pardon pursuant to Section 4852.08.

20 (9) A public defender or attorney of record when representing  
21 a person in a criminal case, or a parole, mandatory supervision  
22 pursuant to paragraph (5) of subdivision (h) of Section 1170, or  
23 postrelease community supervision revocation or revocation  
24 extension proceeding, and if authorized access by statutory or  
25 decisional law.

26 (10) Any agency, officer, or official of the state if the criminal  
27 history information is required to implement a statute or regulation  
28 that expressly refers to specific criminal conduct applicable to the  
29 subject person of the state summary criminal history information,  
30 and contains requirements or exclusions, or both, expressly based  
31 upon that specified criminal conduct. The agency, officer, or  
32 official of the state authorized by this paragraph to receive state  
33 summary criminal history information may also transmit fingerprint  
34 images and related information to the Department of Justice to be  
35 transmitted to the Federal Bureau of Investigation.

36 (11) Any city or county, city and county, district, or any officer  
37 or official thereof if access is needed in order to assist that agency,  
38 officer, or official in fulfilling employment, certification, or  
39 licensing duties, and if the access is specifically authorized by the  
40 city council, board of supervisors, or governing board of the city,

1 county, or district if the criminal history information is required  
2 to implement a statute, ordinance, or regulation that expressly  
3 refers to specific criminal conduct applicable to the subject person  
4 of the state summary criminal history information, and contains  
5 requirements or exclusions, or both, expressly based upon that  
6 specified criminal conduct. The city or county, city and county,  
7 district, or the officer or official thereof authorized by this  
8 paragraph may also transmit fingerprint images and related  
9 information to the Department of Justice to be transmitted to the  
10 Federal Bureau of Investigation.

11 (12) The subject of the state summary criminal history  
12 information under procedures established under Article 5  
13 (commencing with Section 11120).

14 (13) Any person or entity when access is expressly authorized  
15 by statute if the criminal history information is required to  
16 implement a statute or regulation that expressly refers to specific  
17 criminal conduct applicable to the subject person of the state  
18 summary criminal history information, and contains requirements  
19 or exclusions, or both, expressly based upon that specified criminal  
20 conduct.

21 (14) Health officers of a city, county, city and county, or district  
22 when in the performance of their official duties enforcing Section  
23 120175 of the Health and Safety Code.

24 (15) Any managing or supervising correctional officer of a  
25 county jail or other county correctional facility.

26 (16) Any humane society, or society for the prevention of cruelty  
27 to animals, for the specific purpose of complying with Section  
28 14502 of the Corporations Code for the appointment of humane  
29 officers.

30 (17) Local child support agencies established by Section 17304  
31 of the Family Code. When a local child support agency closes a  
32 support enforcement case containing summary criminal history  
33 information, the agency shall delete or purge from the file and  
34 destroy any documents or information concerning or arising from  
35 offenses for or of which the parent has been arrested, charged, or  
36 convicted, other than for offenses related to the parent's having  
37 failed to provide support for minor children, consistent with the  
38 requirements of Section 17531 of the Family Code.

39 (18) County child welfare agency personnel who have been  
40 delegated the authority of county probation officers to access state

1 summary criminal history information pursuant to Section 272 of  
2 the Welfare and Institutions Code for the purposes specified in  
3 Section 16504.5 of the Welfare and Institutions Code. Information  
4 from criminal history records provided pursuant to this subdivision  
5 shall not be used for any purposes other than those specified in  
6 this section and Section 16504.5 of the Welfare and Institutions  
7 Code. When an agency obtains records obtained both on the basis  
8 of name checks and fingerprint checks, final placement decisions  
9 shall be based only on the records obtained pursuant to the  
10 fingerprint check.

11 (19) The court of a tribe, or court of a consortium of tribes, that  
12 has entered into an agreement with the state pursuant to Section  
13 10553.1 of the Welfare and Institutions Code. This information  
14 may be used only for the purposes specified in Section 16504.5  
15 of the Welfare and Institutions Code and for tribal approval or  
16 tribal licensing of foster care or adoptive homes. Article 6  
17 (commencing with Section 11140) shall apply to officers, members,  
18 and employees of a tribal court receiving criminal record offender  
19 information pursuant to this section.

20 (20) Child welfare agency personnel of a tribe or consortium  
21 of tribes that has entered into an agreement with the state pursuant  
22 to Section 10553.1 of the Welfare and Institutions Code and to  
23 whom the state has delegated duties under paragraph (2) of  
24 subdivision (a) of Section 272 of the Welfare and Institutions Code.  
25 The purposes for use of the information shall be for the purposes  
26 specified in Section 16504.5 of the Welfare and Institutions Code  
27 and for tribal approval or tribal licensing of foster care or adoptive  
28 homes. When an agency obtains records on the basis of name  
29 checks and fingerprint checks, final placement decisions shall be  
30 based only on the records obtained pursuant to the fingerprint  
31 check. Article 6 (commencing with Section 11140) shall apply to  
32 child welfare agency personnel receiving criminal record offender  
33 information pursuant to this section.

34 (21) An officer providing conservatorship investigations  
35 pursuant to Sections 5351, 5354, and 5356 of the Welfare and  
36 Institutions Code.

37 (22) A court investigator providing investigations or reviews  
38 in conservatorships pursuant to Section 1826, 1850, 1851, or  
39 2250.6 of the Probate Code.

1 (23) A person authorized to conduct a guardianship investigation  
2 pursuant to Section 1513 of the Probate Code.

3 (24) A humane officer pursuant to Section 14502 of the  
4 Corporations Code for the purposes of performing his or her duties.

5 (25) A public agency described in subdivision (b) of Section  
6 15975 of the Government Code, for the purpose of oversight and  
7 enforcement policies with respect to its contracted providers.

8 (c) The Attorney General may furnish state summary criminal  
9 history information and, when specifically authorized by this  
10 subdivision, federal level criminal history information upon a  
11 showing of a compelling need to any of the following, provided  
12 that when information is furnished to assist an agency, officer, or  
13 official of state or local government, a public utility, or any other  
14 entity in fulfilling employment, certification, or licensing duties,  
15 Chapter 1321 of the Statutes of 1974 and Section 432.7 of the  
16 Labor Code shall apply:

17 (1) Any public utility, as defined in Section 216 of the Public  
18 Utilities Code, that operates a nuclear energy facility when access  
19 is needed in order to assist in employing persons to work at the  
20 facility, provided that, if the Attorney General supplies the data,  
21 he or she shall furnish a copy of the data to the person to whom  
22 the data relates.

23 (2) To a peace officer of the state other than those included in  
24 subdivision (b).

25 (3) To an illegal dumping enforcement officer as defined in  
26 subdivision (j) of Section 830.7.

27 (4) To a peace officer of another country.

28 (5) To public officers, other than peace officers, of the United  
29 States, other states, or possessions or territories of the United  
30 States, provided that access to records similar to state summary  
31 criminal history information is expressly authorized by a statute  
32 of the United States, other states, or possessions or territories of  
33 the United States if the information is needed for the performance  
34 of their official duties.

35 (6) To any person when disclosure is requested by a probation,  
36 parole, or peace officer with the consent of the subject of the state  
37 summary criminal history information and for purposes of  
38 furthering the rehabilitation of the subject.

39 (7) The courts of the United States, other states, or territories  
40 or possessions of the United States.

1 (8) Peace officers of the United States, other states, or territories  
2 or possessions of the United States.

3 (9) To any individual who is the subject of the record requested  
4 if needed in conjunction with an application to enter the United  
5 States or any foreign nation.

6 (10) (A) (i) Any public utility, as defined in Section 216 of the  
7 Public Utilities Code, or any cable corporation as defined in  
8 subparagraph (B), if receipt of criminal history information is  
9 needed in order to assist in employing current or prospective  
10 employees, contract employees, or subcontract employees who,  
11 in the course of their employment may be seeking entrance to  
12 private residences or adjacent grounds. The information provided  
13 shall be limited to the record of convictions and any arrest for  
14 which the person is released on bail or on his or her own  
15 recognizance pending trial.

16 (ii) If the Attorney General supplies the data pursuant to this  
17 paragraph, the Attorney General shall furnish a copy of the data  
18 to the current or prospective employee to whom the data relates.

19 (iii) Any information obtained from the state summary criminal  
20 history is confidential and the receiving public utility or cable  
21 corporation shall not disclose its contents, other than for the  
22 purpose for which it was acquired. The state summary criminal  
23 history information in the possession of the public utility or cable  
24 corporation and all copies made from it shall be destroyed not  
25 more than 30 days after employment or promotion or transfer is  
26 denied or granted, except for those cases where a current or  
27 prospective employee is out on bail or on his or her own  
28 recognizance pending trial, in which case the state summary  
29 criminal history information and all copies shall be destroyed not  
30 more than 30 days after the case is resolved.

31 (iv) A violation of this paragraph is a misdemeanor, and shall  
32 give the current or prospective employee who is injured by the  
33 violation a cause of action against the public utility or cable  
34 corporation to recover damages proximately caused by the  
35 violations. Any public utility's or cable corporation's request for  
36 state summary criminal history information for purposes of  
37 employing current or prospective employees who may be seeking  
38 entrance to private residences or adjacent grounds in the course  
39 of their employment shall be deemed a "compelling need" as  
40 required to be shown in this subdivision.



1 (v) Nothing in this section shall be construed as imposing any  
2 duty upon public utilities or cable corporations to request state  
3 summary criminal history information on any current or prospective  
4 employees.

5 (B) For purposes of this paragraph, “cable corporation” means  
6 any corporation or firm that transmits or provides television,  
7 computer, or telephone services by cable, digital, fiber optic,  
8 satellite, or comparable technology to subscribers for a fee.

9 (C) Requests for federal level criminal history information  
10 received by the Department of Justice from entities authorized  
11 pursuant to subparagraph (A) shall be forwarded to the Federal  
12 Bureau of Investigation by the Department of Justice. Federal level  
13 criminal history information received or compiled by the  
14 Department of Justice may then be disseminated to the entities  
15 referenced in subparagraph (A), as authorized by law.

16 (D) (i) Authority for a cable corporation to request state or  
17 federal level criminal history information under this paragraph  
18 shall commence July 1, 2005.

19 (ii) Authority for a public utility to request federal level criminal  
20 history information under this paragraph shall commence July 1,  
21 2005.

22 (11) To any campus of the California State University or the  
23 University of California, or any four year college or university  
24 accredited by a regional accreditation organization approved by  
25 the United States Department of Education, if needed in  
26 conjunction with an application for admission by a convicted felon  
27 to any special education program for convicted felons, including,  
28 but not limited to, university alternatives and halfway houses. Only  
29 conviction information shall be furnished. The college or university  
30 may require the convicted felon to be fingerprinted, and any inquiry  
31 to the department under this section shall include the convicted  
32 felon’s fingerprints and any other information specified by the  
33 department.

34 (12) To any foreign government, if requested by the individual  
35 who is the subject of the record requested, if needed in conjunction  
36 with the individual’s application to adopt a minor child who is a  
37 citizen of that foreign nation. Requests for information pursuant  
38 to this paragraph shall be in accordance with the process described  
39 in Sections 11122 to 11124, inclusive. The response shall be

1 provided to the foreign government or its designee and to the  
2 individual who requested the information.

3 (d) Whenever an authorized request for state summary criminal  
4 history information pertains to a person whose fingerprints are on  
5 file with the Department of Justice and the department has no  
6 criminal history of that person, and the information is to be used  
7 for employment, licensing, or certification purposes, the fingerprint  
8 card accompanying the request for information, if any, may be  
9 stamped “no criminal record” and returned to the person or entity  
10 making the request.

11 (e) Whenever state summary criminal history information is  
12 furnished as the result of an application and is to be used for  
13 employment, licensing, or certification purposes, the Department  
14 of Justice may charge the person or entity making the request a  
15 fee that it determines to be sufficient to reimburse the department  
16 for the cost of furnishing the information. In addition, the  
17 Department of Justice may add a surcharge to the fee to fund  
18 maintenance and improvements to the systems from which the  
19 information is obtained. Notwithstanding any other law, any person  
20 or entity required to pay a fee to the department for information  
21 received under this section may charge the applicant a fee sufficient  
22 to reimburse the person or entity for this expense. All moneys  
23 received by the department pursuant to this section, Sections  
24 11105.3 and 26190, and former Section 13588 of the Education  
25 Code shall be deposited in a special account in the General Fund  
26 to be available for expenditure by the department to offset costs  
27 incurred pursuant to those sections and for maintenance and  
28 improvements to the systems from which the information is  
29 obtained upon appropriation by the Legislature.

30 (f) Whenever there is a conflict, the processing of criminal  
31 fingerprints and fingerprints of applicants for security guard or  
32 alarm agent registrations or firearms qualification permits  
33 submitted pursuant to Section 7583.9, 7583.23, 7596.3, or 7598.4  
34 of the Business and Professions Code shall take priority over the  
35 processing of other applicant fingerprints.

36 (g) It is not a violation of this section to disseminate statistical  
37 or research information obtained from a record, provided that the  
38 identity of the subject of the record is not disclosed.

39 (h) It is not a violation of this section to include information  
40 obtained from a record in (1) a transcript or record of a judicial or

1 administrative proceeding or (2) any other public record if the  
2 inclusion of the information in the public record is authorized by  
3 a court, statute, or decisional law.

4 (i) Notwithstanding any other law, the Department of Justice  
5 or any state or local law enforcement agency may require the  
6 submission of fingerprints for the purpose of conducting summary  
7 criminal history information checks that are authorized by law.

8 (j) The state summary criminal history information shall include  
9 any finding of mental incompetence pursuant to Chapter 6  
10 (commencing with Section 1367) of Title 10 of Part 2 arising out  
11 of a complaint charging a felony offense specified in Section 290.

12 (k) (1) This subdivision shall apply whenever state or federal  
13 summary criminal history information is furnished by the  
14 Department of Justice as the result of an application by an  
15 authorized agency or organization and the information is to be  
16 used for peace officer employment or certification purposes. As  
17 used in this subdivision, a peace officer is defined in Chapter 4.5  
18 (commencing with Section 830) of Title 3 of Part 2.

19 (2) Notwithstanding any other provision of law, whenever state  
20 summary criminal history information is initially furnished  
21 pursuant to paragraph (1), the Department of Justice shall  
22 disseminate the following information:

23 (A) Every conviction rendered against the applicant.

24 (B) Every arrest for an offense for which the applicant is  
25 presently awaiting trial, whether the applicant is incarcerated or  
26 has been released on bail or on his or her own recognizance  
27 pending trial.

28 (C) Every arrest or detention, except for an arrest or detention  
29 resulting in an exoneration, provided, however, that where the  
30 records of the Department of Justice do not contain a disposition  
31 for the arrest, the Department of Justice first makes a genuine effort  
32 to determine the disposition of the arrest.

33 (D) Every successful diversion.

34 (E) Every date and agency name associated with all retained  
35 peace officer or nonsworn law enforcement agency employee  
36 preemployment criminal offender record information search  
37 requests.

38 (l) (1) This subdivision shall apply whenever state or federal  
39 summary criminal history information is furnished by the  
40 Department of Justice as the result of an application by a criminal

1 justice agency or organization as defined in Section 13101, and  
2 the information is to be used for criminal justice employment,  
3 licensing, or certification purposes.

4 (2) Notwithstanding any other provision of law, whenever state  
5 summary criminal history information is initially furnished  
6 pursuant to paragraph (1), the Department of Justice shall  
7 disseminate the following information:

8 (A) Every conviction rendered against the applicant.

9 (B) Every arrest for an offense for which the applicant is  
10 presently awaiting trial, whether the applicant is incarcerated or  
11 has been released on bail or on his or her own recognizance  
12 pending trial.

13 (C) Every arrest for an offense for which the records of the  
14 Department of Justice do not contain a disposition or did not result  
15 in a conviction, provided that the Department of Justice first makes  
16 a genuine effort to determine the disposition of the arrest. However,  
17 information concerning an arrest shall not be disclosed if the  
18 records of the Department of Justice indicate or if the genuine  
19 effort reveals that the subject was exonerated, successfully  
20 completed a diversion or deferred entry of judgment program, or  
21 the arrest was deemed a detention.

22 (D) Every date and agency name associated with all retained  
23 peace officer or nonsworn law enforcement agency employee  
24 preemployment criminal offender record information search  
25 requests.

26 (m) (1) This subdivision shall apply whenever state or federal  
27 summary criminal history information is furnished by the  
28 Department of Justice as the result of an application by an  
29 authorized agency or organization pursuant to Section 1522,  
30 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or  
31 any statute that incorporates the criteria of any of those sections  
32 or this subdivision by reference, and the information is to be used  
33 for employment, licensing, or certification purposes.

34 (2) Notwithstanding any other provision of law, whenever state  
35 summary criminal history information is initially furnished  
36 pursuant to paragraph (1), the Department of Justice shall  
37 disseminate the following information:

38 (A) Every conviction of an offense rendered against the  
39 applicant.

1 (B) Every arrest for an offense for which the applicant is  
2 presently awaiting trial, whether the applicant is incarcerated or  
3 has been released on bail or on his or her own recognizance  
4 pending trial.

5 (C) Every arrest for an offense for which the Department of  
6 Social Services is required by paragraph (1) of subdivision (a) of  
7 Section 1522 of the Health and Safety Code to determine if an  
8 applicant has been arrested. However, if the records of the  
9 Department of Justice do not contain a disposition for an arrest,  
10 the Department of Justice shall first make a genuine effort to  
11 determine the disposition of the arrest.

12 (3) Notwithstanding the requirements of the sections referenced  
13 in paragraph (1) of this subdivision, the Department of Justice  
14 shall not disseminate information about an arrest subsequently  
15 deemed a detention or an arrest that resulted in either the successful  
16 completion of a diversion program or exoneration.

17 (n) (1) This subdivision shall apply whenever state or federal  
18 summary criminal history information, to be used for employment,  
19 licensing, or certification purposes, is furnished by the Department  
20 of Justice as the result of an application by an authorized agency,  
21 organization, or individual pursuant to any of the following:

22 (A) Paragraph (9) of subdivision (c), when the information is  
23 to be used by a cable corporation.

24 (B) Section 11105.3 or 11105.4.

25 (C) Section 15660 of the Welfare and Institutions Code.

26 (D) Any statute that incorporates the criteria of any of the  
27 statutory provisions listed in subparagraph (A), (B), or (C), or of  
28 this subdivision, by reference.

29 (2) With the exception of applications submitted by  
30 transportation companies authorized pursuant to Section 11105.3,  
31 and notwithstanding any other provision of law, whenever state  
32 summary criminal history information is initially furnished  
33 pursuant to paragraph (1), the Department of Justice shall  
34 disseminate the following information:

35 (A) Every conviction rendered against the applicant for a  
36 violation or attempted violation of any offense specified in  
37 subdivision (a) of Section 15660 of the Welfare and Institutions  
38 Code. However, with the exception of those offenses for which  
39 registration is required pursuant to Section 290, the Department  
40 of Justice shall not disseminate information pursuant to this

1 subdivision unless the conviction occurred within 10 years of the  
2 date of the agency's request for information or the conviction is  
3 over 10 years old but the subject of the request was incarcerated  
4 within 10 years of the agency's request for information.

5 (B) Every arrest for a violation or attempted violation of an  
6 offense specified in subdivision (a) of Section 15660 of the Welfare  
7 and Institutions Code for which the applicant is presently awaiting  
8 trial, whether the applicant is incarcerated or has been released on  
9 bail or on his or her own recognizance pending trial.

10 (o) (1) This subdivision shall apply whenever state or federal  
11 summary criminal history information is furnished by the  
12 Department of Justice as the result of an application by an  
13 authorized agency or organization pursuant to Section 379 or 550  
14 of the Financial Code, or any statute that incorporates the criteria  
15 of either of those sections or this subdivision by reference, and the  
16 information is to be used for employment, licensing, or certification  
17 purposes.

18 (2) Notwithstanding any other provision of law, whenever state  
19 summary criminal history information is initially furnished  
20 pursuant to paragraph (1), the Department of Justice shall  
21 disseminate the following information:

22 (A) Every conviction rendered against the applicant for a  
23 violation or attempted violation of any offense specified in Section  
24 550 of the Financial Code.

25 (B) Every arrest for a violation or attempted violation of an  
26 offense specified in Section 550 of the Financial Code for which  
27 the applicant is presently awaiting trial, whether the applicant is  
28 incarcerated or has been released on bail or on his or her own  
29 recognizance pending trial.

30 (p) (1) This subdivision shall apply whenever state or federal  
31 criminal history information is furnished by the Department of  
32 Justice as the result of an application by an agency, organization,  
33 or individual not defined in subdivision (k), (l), (m), (n), or (o), or  
34 by a transportation company authorized pursuant to Section  
35 11105.3, or any statute that incorporates the criteria of that section  
36 or this subdivision by reference, and the information is to be used  
37 for employment, licensing, or certification purposes.

38 (2) Notwithstanding any other provisions of law, whenever state  
39 summary criminal history information is initially furnished

1 pursuant to paragraph (1), the Department of Justice shall  
2 disseminate the following information:

3 (A) Every conviction rendered against the applicant.

4 (B) Every arrest for an offense for which the applicant is  
5 presently awaiting trial, whether the applicant is incarcerated or  
6 has been released on bail or on his or her own recognizance  
7 pending trial.

8 (q) All agencies, organizations, or individuals defined in  
9 subdivisions (k), (l), (m), (n), (o), and (p) may contract with the  
10 Department of Justice for subsequent notification pursuant to  
11 Section 11105.2. This subdivision shall not supersede sections that  
12 mandate an agency, organization, or individual to contract with  
13 the Department of Justice for subsequent notification pursuant to  
14 Section 11105.2.

15 (r) Nothing in this section shall be construed to mean that the  
16 Department of Justice shall cease compliance with any other  
17 statutory notification requirements.

18 (s) The provisions of Section 50.12 of Title 28 of the Code of  
19 Federal Regulations are to be followed in processing federal  
20 criminal history information.

21 (t) Whenever state or federal summary criminal history  
22 information is furnished by the Department of Justice as the result  
23 of an application by an authorized agency, organization, or  
24 individual defined in subdivisions (k) to (p), inclusive, and the  
25 information is to be used for employment, licensing, or certification  
26 purposes, the authorized agency, organization, or individual shall  
27 expeditiously furnish a copy of the information to the person to  
28 whom the information relates if the information is a basis for an  
29 adverse employment, licensing, or certification decision. When  
30 furnished other than in person, the copy shall be delivered to the  
31 last contact information provided by the applicant.

32 *SEC. 2.5. Section 11105 of the Penal Code is amended to read:*

33 11105. (a) (1) The Department of Justice shall maintain state  
34 summary criminal history information.

35 (2) As used in this section:

36 (A) "State summary criminal history information" means the  
37 master record of information compiled by the Attorney General  
38 pertaining to the identification and criminal history of any person,  
39 such as name, date of birth, physical description, fingerprints,

1 photographs, dates of arrests, arresting agencies and booking  
2 numbers, charges, dispositions, and similar data about the person.

3 (B) “State summary criminal history information” does not refer  
4 to records and data compiled by criminal justice agencies other  
5 than the Attorney General, nor does it refer to records of complaints  
6 to or investigations conducted by, or records of intelligence  
7 information or security procedures of, the office of the Attorney  
8 General and the Department of Justice.

9 (b) The Attorney General shall furnish state summary criminal  
10 history information to any of the following, if needed in the course  
11 of their duties, provided that when information is furnished to  
12 assist an agency, officer, or official of state or local government,  
13 a public utility, or any other entity, in fulfilling employment,  
14 certification, or licensing duties, Chapter 1321 of the Statutes of  
15 1974 and Section 432.7 of the Labor Code shall apply:

16 (1) The courts of the state.

17 (2) Peace officers of the state, as defined in Section 830.1,  
18 subdivisions (a) and (e) of Section 830.2, subdivision (a) of Section  
19 830.3, subdivisions (a) and (b) of Section 830.5, and subdivision  
20 (a) of Section 830.31.

21 (3) District attorneys of the state.

22 (4) Prosecuting city attorneys of any city within the state.

23 (5) City attorneys pursuing civil gang injunctions pursuant to  
24 Section 186.22a, or drug abatement actions pursuant to Section  
25 3479 or 3480 of the Civil Code, or Section 11571 of the Health  
26 and Safety Code.

27 (6) Probation officers of the state.

28 (7) Parole officers of the state.

29 (8) A public defender or attorney of record when representing  
30 a person in proceedings upon a petition for a certificate of  
31 rehabilitation and pardon pursuant to Section 4852.08.

32 (9) A public defender or attorney of record when representing  
33 a person in a criminal case, or a parole, mandatory supervision  
34 pursuant to paragraph (5) of subdivision (h) of Section 1170, or  
35 postrelease community supervision revocation or revocation  
36 extension proceeding, and if authorized access by statutory or  
37 decisional law.

38 (10) Any agency, officer, or official of the state if the criminal  
39 history information is required to implement a statute or regulation  
40 that expressly refers to specific criminal conduct applicable to the



1 subject person of the state summary criminal history information,  
2 and contains requirements or exclusions, or both, expressly based  
3 upon that specified criminal conduct. The agency, officer, or  
4 official of the state authorized by this paragraph to receive state  
5 summary criminal history information may also transmit fingerprint  
6 images and related information to the Department of Justice to be  
7 transmitted to the Federal Bureau of Investigation.

8 (11) Any city or county, city and county, district, or any officer  
9 or official thereof if access is needed in order to assist that agency,  
10 officer, or official in fulfilling employment, certification, or  
11 licensing duties, and if the access is specifically authorized by the  
12 city council, board of supervisors, or governing board of the city,  
13 county, or district if the criminal history information is required  
14 to implement a statute, ordinance, or regulation that expressly  
15 refers to specific criminal conduct applicable to the subject person  
16 of the state summary criminal history information, and contains  
17 requirements or exclusions, or both, expressly based upon that  
18 specified criminal conduct. The city or county, city and county,  
19 district, or the officer or official thereof authorized by this  
20 paragraph may also transmit fingerprint images and related  
21 information to the Department of Justice to be transmitted to the  
22 Federal Bureau of Investigation.

23 (12) The subject of the state summary criminal history  
24 information under procedures established under Article 5  
25 (commencing with Section 11120).

26 (13) Any person or entity when access is expressly authorized  
27 by statute if the criminal history information is required to  
28 implement a statute or regulation that expressly refers to specific  
29 criminal conduct applicable to the subject person of the state  
30 summary criminal history information, and contains requirements  
31 or exclusions, or both, expressly based upon that specified criminal  
32 conduct.

33 (14) Health officers of a city, county, city and county, or district  
34 when in the performance of their official duties enforcing Section  
35 120175 of the Health and Safety Code.

36 (15) Any managing or supervising correctional officer of a  
37 county jail or other county correctional facility.

38 (16) Any humane society, or society for the prevention of cruelty  
39 to animals, for the specific purpose of complying with Section

1 14502 of the Corporations Code for the appointment of humane  
2 officers.

3 (17) Local child support agencies established by Section 17304  
4 of the Family Code. When a local child support agency closes a  
5 support enforcement case containing summary criminal history  
6 information, the agency shall delete or purge from the file and  
7 destroy any documents or information concerning or arising from  
8 offenses for or of which the parent has been arrested, charged, or  
9 convicted, other than for offenses related to the parent's having  
10 failed to provide support for minor children, consistent with the  
11 requirements of Section 17531 of the Family Code.

12 (18) County child welfare agency personnel who have been  
13 delegated the authority of county probation officers to access state  
14 summary criminal history information pursuant to Section 272 of  
15 the Welfare and Institutions Code for the purposes specified in  
16 Section 16504.5 of the Welfare and Institutions Code. Information  
17 from criminal history records provided pursuant to this subdivision  
18 shall not be used for any purposes other than those specified in  
19 this section and Section 16504.5 of the Welfare and Institutions  
20 Code. When an agency obtains records obtained both on the basis  
21 of name checks and fingerprint checks, final placement decisions  
22 shall be based only on the records obtained pursuant to the  
23 fingerprint check.

24 (19) The court of a tribe, or court of a consortium of tribes, that  
25 has entered into an agreement with the state pursuant to Section  
26 10553.1 of the Welfare and Institutions Code. This information  
27 may be used only for the purposes specified in Section 16504.5  
28 of the Welfare and Institutions Code and for tribal approval or  
29 tribal licensing of foster care or adoptive homes. Article 6  
30 (commencing with Section 11140) shall apply to officers, members,  
31 and employees of a tribal court receiving criminal record offender  
32 information pursuant to this section.

33 (20) Child welfare agency personnel of a tribe or consortium  
34 of tribes that has entered into an agreement with the state pursuant  
35 to Section 10553.1 of the Welfare and Institutions Code and to  
36 whom the state has delegated duties under paragraph (2) of  
37 subdivision (a) of Section 272 of the Welfare and Institutions Code.  
38 The purposes for use of the information shall be for the purposes  
39 specified in Section 16504.5 of the Welfare and Institutions Code  
40 and for tribal approval or tribal licensing of foster care or adoptive

homes. When an agency obtains records on the basis of name checks and fingerprint checks, final placement decisions shall be based only on the records obtained pursuant to the fingerprint check. Article 6 (commencing with Section 11140) shall apply to child welfare agency personnel receiving criminal record offender information pursuant to this section.

(21) An officer providing conservatorship investigations pursuant to Sections 5351, 5354, and 5356 of the Welfare and Institutions Code.

(22) A court investigator providing investigations or reviews in conservatorships pursuant to Section 1826, 1850, 1851, or 2250.6 of the Probate Code.

(23) A person authorized to conduct a guardianship investigation pursuant to Section 1513 of the Probate Code.

(24) A humane officer pursuant to Section 14502 of the Corporations Code for the purposes of performing his or her duties.

(25) *A public agency described in subdivision (b) of Section 15975 of the Government Code, for the purpose of oversight and enforcement policies with respect to its contracted providers.*

(c) The Attorney General may furnish state summary criminal history information and, when specifically authorized by this subdivision, federal level criminal history information upon a showing of a compelling need to any of the following, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any other entity in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:

(1) Any public utility, as defined in Section 216 of the Public Utilities Code, that operates a nuclear energy facility when access is needed in order to assist in employing persons to work at the facility, provided that, if the Attorney General supplies the data, he or she shall furnish a copy of the data to the person to whom the data relates.

(2) To a peace officer of the state other than those included in subdivision (b).

(3) To an illegal dumping enforcement officer as defined in subdivision (j) of Section 830.7.

(4) To a peace officer of another country.

1 (5) To public officers, other than peace officers, of the United  
2 States, other states, or possessions or territories of the United  
3 States, provided that access to records similar to state summary  
4 criminal history information is expressly authorized by a statute  
5 of the United States, other states, or possessions or territories of  
6 the United States if the information is needed for the performance  
7 of their official duties.

8 (6) To any person when disclosure is requested by a probation,  
9 parole, or peace officer with the consent of the subject of the state  
10 summary criminal history information and for purposes of  
11 furthering the rehabilitation of the subject.

12 (7) The courts of the United States, other states, or territories  
13 or possessions of the United States.

14 (8) Peace officers of the United States, other states, or territories  
15 or possessions of the United States.

16 (9) To any individual who is the subject of the record requested  
17 if needed in conjunction with an application to enter the United  
18 States or any foreign nation.

19 (10) (A) (i) Any public utility, as defined in Section 216 of the  
20 Public Utilities Code, or any cable corporation as defined in  
21 subparagraph (B), if receipt of criminal history information is  
22 needed in order to assist in employing current or prospective  
23 employees, contract employees, or subcontract employees who,  
24 in the course of their employment may be seeking entrance to  
25 private residences or adjacent grounds. The information provided  
26 shall be limited to the record of convictions and any arrest for  
27 which the person is released on bail or on his or her own  
28 recognizance pending trial.

29 (ii) If the Attorney General supplies the data pursuant to this  
30 paragraph, the Attorney General shall furnish a copy of the data  
31 to the current or prospective employee to whom the data relates.

32 (iii) Any information obtained from the state summary criminal  
33 history is confidential and the receiving public utility or cable  
34 corporation shall not disclose its contents, other than for the  
35 purpose for which it was acquired. The state summary criminal  
36 history information in the possession of the public utility or cable  
37 corporation and all copies made from it shall be destroyed not  
38 more than 30 days after employment or promotion or transfer is  
39 denied or granted, except for those cases where a current or  
40 prospective employee is out on bail or on his or her own

1 recognizance pending trial, in which case the state summary  
2 criminal history information and all copies shall be destroyed not  
3 more than 30 days after the case is resolved.

4 (iv) A violation of this paragraph is a misdemeanor, and shall  
5 give the current or prospective employee who is injured by the  
6 violation a cause of action against the public utility or cable  
7 corporation to recover damages proximately caused by the  
8 violations. Any public utility's or cable corporation's request for  
9 state summary criminal history information for purposes of  
10 employing current or prospective employees who may be seeking  
11 entrance to private residences or adjacent grounds in the course  
12 of their employment shall be deemed a "compelling need" as  
13 required to be shown in this subdivision.

14 (v) Nothing in this section shall be construed as imposing any  
15 duty upon public utilities or cable corporations to request state  
16 summary criminal history information on any current or prospective  
17 employees.

18 (B) For purposes of this paragraph, "cable corporation" means  
19 any corporation or firm that transmits or provides television,  
20 computer, or telephone services by cable, digital, fiber optic,  
21 satellite, or comparable technology to subscribers for a fee.

22 (C) Requests for federal level criminal history information  
23 received by the Department of Justice from entities authorized  
24 pursuant to subparagraph (A) shall be forwarded to the Federal  
25 Bureau of Investigation by the Department of Justice. Federal level  
26 criminal history information received or compiled by the  
27 Department of Justice may then be disseminated to the entities  
28 referenced in subparagraph (A), as authorized by law.

29 (D) (i) Authority for a cable corporation to request state or  
30 federal level criminal history information under this paragraph  
31 shall commence July 1, 2005.

32 (ii) Authority for a public utility to request federal level criminal  
33 history information under this paragraph shall commence July 1,  
34 2005.

35 (11) To any campus of the California State University or the  
36 University of California, or any four year college or university  
37 accredited by a regional accreditation organization approved by  
38 the United States Department of Education, if needed in  
39 conjunction with an application for admission by a convicted felon  
40 to any special education program for convicted felons, including,

1 but not limited to, university alternatives and halfway houses. Only  
2 conviction information shall be furnished. The college or university  
3 may require the convicted felon to be fingerprinted, and any inquiry  
4 to the department under this section shall include the convicted  
5 felon's fingerprints and any other information specified by the  
6 department.

7 (12) To any foreign government, if requested by the individual  
8 who is the subject of the record requested, if needed in conjunction  
9 with the individual's application to adopt a minor child who is a  
10 citizen of that foreign nation. Requests for information pursuant  
11 to this paragraph shall be in accordance with the process described  
12 in Sections 11122 to 11124, inclusive. The response shall be  
13 provided to the foreign government or its designee and to the  
14 individual who requested the information.

15 (d) Whenever an authorized request for state summary criminal  
16 history information pertains to a person whose fingerprints are on  
17 file with the Department of Justice and the department has no  
18 criminal history of that person, and the information is to be used  
19 for employment, licensing, or certification purposes, the fingerprint  
20 card accompanying the request for information, if any, may be  
21 stamped "no criminal record" and returned to the person or entity  
22 making the request.

23 (e) Whenever state summary criminal history information is  
24 furnished as the result of an application and is to be used for  
25 employment, licensing, or certification purposes, the Department  
26 of Justice may charge the person or entity making the request a  
27 fee that it determines to be sufficient to reimburse the department  
28 for the cost of furnishing the information. In addition, the  
29 Department of Justice may add a surcharge to the fee to fund  
30 maintenance and improvements to the systems from which the  
31 information is obtained. Notwithstanding any other law, any person  
32 or entity required to pay a fee to the department for information  
33 received under this section may charge the applicant a fee sufficient  
34 to reimburse the person or entity for this expense. All moneys  
35 received by the department pursuant to this section, Sections  
36 11105.3 and 26190, and former Section 13588 of the Education  
37 Code shall be deposited in a special account in the General Fund  
38 to be available for expenditure by the department to offset costs  
39 incurred pursuant to those sections and for maintenance and

1 improvements to the systems from which the information is  
2 obtained upon appropriation by the Legislature.

3 (f) Whenever there is a conflict, the processing of criminal  
4 fingerprints and fingerprints of applicants for security guard or  
5 alarm agent registrations or firearms qualification permits  
6 submitted pursuant to Section 7583.9, 7583.23, 7596.3, or 7598.4  
7 of the Business and Professions Code shall take priority over the  
8 processing of other applicant fingerprints.

9 (g) It is not a violation of this section to disseminate statistical  
10 or research information obtained from a record, provided that the  
11 identity of the subject of the record is not disclosed.

12 (h) It is not a violation of this section to include information  
13 obtained from a record in (1) a transcript or record of a judicial or  
14 administrative proceeding or (2) any other public record if the  
15 inclusion of the information in the public record is authorized by  
16 a court, statute, or decisional law.

17 (i) Notwithstanding any other law, the Department of Justice  
18 or any state or local law enforcement agency may require the  
19 submission of fingerprints for the purpose of conducting summary  
20 criminal history information checks that are authorized by law.

21 (j) The state summary criminal history information shall include  
22 any finding of mental incompetence pursuant to Chapter 6  
23 (commencing with Section 1367) of Title 10 of Part 2 arising out  
24 of a complaint charging a felony offense specified in Section 290.

25 (k) (1) This subdivision shall apply whenever state or federal  
26 summary criminal history information is furnished by the  
27 Department of Justice as the result of an application by an  
28 authorized agency or organization and the information is to be  
29 used for peace officer employment or certification purposes. As  
30 used in this subdivision, a peace officer is defined in Chapter 4.5  
31 (commencing with Section 830) of Title 3 of Part 2.

32 (2) Notwithstanding any other provision of law, whenever state  
33 summary criminal history information is initially furnished  
34 pursuant to paragraph (1), the Department of Justice shall  
35 disseminate the following information:

36 (A) Every conviction rendered against the applicant.

37 (B) Every arrest for an offense for which the applicant is  
38 presently awaiting trial, whether the applicant is incarcerated or  
39 has been released on bail or on his or her own recognizance  
40 pending trial.

1 (C) Every arrest or detention, except for an arrest or detention  
2 resulting in an exoneration, ~~provided however~~ *provided, however*,  
3 that where the records of the Department of Justice do not contain  
4 a disposition for the arrest, the Department of Justice first makes  
5 a genuine effort to determine the disposition of the arrest.

6 (D) Every successful diversion.

7 (E) Every date and agency name associated with all retained  
8 peace officer or nonsworn law enforcement agency employee  
9 preemployment criminal offender record information search  
10 requests.

11 (l) (1) This subdivision shall apply whenever state or federal  
12 summary criminal history information is furnished by the  
13 Department of Justice as the result of an application by a criminal  
14 justice agency or organization as defined in Section 13101, and  
15 the information is to be used for criminal justice employment,  
16 licensing, or certification purposes.

17 (2) Notwithstanding any other provision of law, whenever state  
18 summary criminal history information is initially furnished  
19 pursuant to paragraph (1), the Department of Justice shall  
20 disseminate the following information:

21 (A) Every conviction rendered against the applicant.

22 (B) Every arrest for an offense for which the applicant is  
23 presently awaiting trial, whether the applicant is incarcerated or  
24 has been released on bail or on his or her own recognizance  
25 pending trial.

26 (C) Every arrest for an offense for which the records of the  
27 Department of Justice do not contain a disposition or did not result  
28 in a conviction, provided that the Department of Justice first makes  
29 a genuine effort to determine the disposition of the arrest. However,  
30 information concerning an arrest shall not be disclosed if the  
31 records of the Department of Justice indicate or if the genuine  
32 effort reveals that the subject was exonerated, successfully  
33 completed a diversion or deferred entry of judgment program, or  
34 the arrest was deemed a detention.

35 (D) Every date and agency name associated with all retained  
36 peace officer or nonsworn law enforcement agency employee  
37 preemployment criminal offender record information search  
38 requests.

39 (m) (1) This subdivision shall apply whenever state or federal  
40 summary criminal history information is furnished by the



1 Department of Justice as the result of an application by an  
2 authorized agency or organization pursuant to Section 1522,  
3 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or  
4 any statute that incorporates the criteria of any of those sections  
5 or this subdivision by reference, and the information is to be used  
6 for employment, licensing, or certification purposes.

7 (2) Notwithstanding any other provision of law, whenever state  
8 summary criminal history information is initially furnished  
9 pursuant to paragraph (1), the Department of Justice shall  
10 disseminate the following information:

11 (A) Every conviction of an offense rendered against the  
12 ~~applicant~~ *applicant, except a conviction for which the applicant*  
13 *has been granted relief pursuant to Section 1203.4, 1203.4a,*  
14 *1203.45, or 1210.1*

15 (B) Every arrest for an offense for which the applicant is  
16 presently awaiting trial, whether the applicant is incarcerated or  
17 has been released on bail or on his or her own recognizance  
18 pending trial.

19 (C) Every arrest for an offense for which the Department of  
20 Social Services is required by paragraph (1) of subdivision (a) of  
21 Section 1522 of the Health and Safety Code to determine if an  
22 applicant has been arrested. However, if the records of the  
23 Department of Justice do not contain a disposition for an arrest,  
24 the Department of Justice shall first make a genuine effort to  
25 determine the disposition of the arrest.

26 (3) Notwithstanding the requirements of the sections referenced  
27 in paragraph (1) of this subdivision, the Department of Justice  
28 shall not disseminate information about an arrest subsequently  
29 deemed a detention or an arrest that resulted in either the successful  
30 completion of a diversion program or exoneration.

31 (n) (1) This subdivision shall apply whenever state or federal  
32 summary criminal history information, to be used for employment,  
33 licensing, or certification purposes, is furnished by the Department  
34 of Justice as the result of an application by an authorized agency,  
35 organization, or individual pursuant to any of the following:

36 (A) Paragraph (9) of subdivision (c), when the information is  
37 to be used by a cable corporation.

38 (B) Section 11105.3 or 11105.4.

39 (C) Section 15660 of the Welfare and Institutions Code.

(D) Any statute that incorporates the criteria of any of the statutory provisions listed in subparagraph (A), (B), or (C), or of this subdivision, by reference.

(2) With the exception of applications submitted by transportation companies authorized pursuant to Section 11105.3, and notwithstanding any other provision of law, whenever state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant for a violation or attempted violation of any offense specified in subdivision (a) of Section 15660 of the Welfare and Institutions ~~Code~~. *Code, except a conviction for which the applicant has been granted relief pursuant to Section 1203.4, 1203.4a, 1203.45, or 1210.1.* However, with the exception of those offenses for which registration is required pursuant to Section 290, the Department of Justice shall not disseminate information pursuant to this subdivision unless the conviction occurred within 10 years of the date of the agency's request for information or the conviction is over 10 years old but the subject of the request was incarcerated within 10 years of the agency's request for information.

(B) Every arrest for a violation or attempted violation of an offense specified in subdivision (a) of Section 15660 of the Welfare and Institutions Code for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(o) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization pursuant to Section 379 or 550 of the Financial Code, or any statute that incorporates the criteria of either of those sections or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other provision of law, whenever state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant for a violation or attempted violation of any offense specified in Section

1 550 of the Financial ~~Code~~. *Code, except a conviction for which*  
2 *the applicant has been granted relief pursuant to Section 1203.4,*  
3 *1203.4a, 1203.45, or 1210.1.*

4 (B) Every arrest for a violation or attempted violation of an  
5 offense specified in Section 550 of the Financial Code for which  
6 the applicant is presently awaiting trial, whether the applicant is  
7 incarcerated or has been released on bail or on his or her own  
8 recognizance pending trial.

9 (p) (1) This subdivision shall apply whenever state or federal  
10 criminal history information is furnished by the Department of  
11 Justice as the result of an application by an agency, organization,  
12 or individual not defined in subdivision (k), (l), (m), (n), or (o), or  
13 by a transportation company authorized pursuant to Section  
14 11105.3, or any statute that incorporates the criteria of that section  
15 or this subdivision by reference, and the information is to be used  
16 for employment, licensing, or certification purposes.

17 (2) Notwithstanding any other provisions of law, whenever state  
18 summary criminal history information is initially furnished  
19 pursuant to paragraph (1), the Department of Justice shall  
20 disseminate the following information:

21 (A) Every conviction rendered against the ~~applicant~~. *applicant,*  
22 *except a conviction for which the applicant has been granted relief*  
23 *pursuant to Section 1203.4, 1203.4a, 1203.45, or 1210.1.*

24 (B) Every arrest for an offense for which the applicant is  
25 presently awaiting trial, whether the applicant is incarcerated or  
26 has been released on bail or on his or her own recognizance  
27 pending trial.

28 (q) All agencies, organizations, or individuals defined in  
29 subdivisions (k), (l), (m), (n), (o), and (p) may contract with the  
30 Department of Justice for subsequent notification pursuant to  
31 Section 11105.2. This subdivision shall not supersede sections that  
32 mandate an agency, organization, or individual to contract with  
33 the Department of Justice for subsequent notification pursuant to  
34 Section 11105.2.

35 (r) Nothing in this section shall be construed to mean that the  
36 Department of Justice shall cease compliance with any other  
37 statutory notification requirements.

38 (s) The provisions of Section 50.12 of Title 28 of the Code of  
39 Federal Regulations are to be followed in processing federal  
40 criminal history information.

(t) Whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency, organization, or individual defined in subdivisions (k) to (p), inclusive, and the information is to be used for employment, licensing, or certification purposes, the authorized agency, organization, or individual shall expeditiously furnish a copy of the information to the person to whom the information relates if the information is a basis for an adverse employment, licensing, or certification decision. When furnished other than in person, the copy shall be delivered to the last contact information provided by the applicant.

SEC. 3. Section 13300 of the Penal Code is amended to read:

13300. (a) As used in this section:

(1) "Local summary criminal history information" means the master record of information compiled by any local criminal justice agency pursuant to Chapter 2 (commencing with Section 13100) of Title 3 of Part 4 pertaining to the identification and criminal history of any person, such as name, date of birth, physical description, dates of arrests, arresting agencies and booking numbers, charges, dispositions, and similar data about the person.

(2) "Local summary criminal history information" does not refer to records and data compiled by criminal justice agencies other than that local agency, nor does it refer to records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the local agency.

(3) "Local agency" means a local criminal justice agency.

(b) A local agency shall furnish local summary criminal history information to any of the following, when needed in the course of their duties, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:

(1) The courts of the state.

(2) Peace officers of the state, as defined in Section 830.1, subdivisions (a) and (d) of Section 830.2, subdivisions (a), (b), and (j) of Section 830.3, and subdivisions (a), (b), and (c) of Section 830.5.

(3) District attorneys of the state.

(4) Prosecuting city attorneys of any city within the state.

1 (5) City attorneys pursuing civil gang injunctions pursuant to  
2 Section 186.22a, or drug abatement actions pursuant to Section  
3 3479 or 3480 of the Civil Code, or Section 11571 of the Health  
4 and Safety Code.

5 (6) Probation officers of the state.

6 (7) Parole officers of the state.

7 (8) A public defender or attorney of record when representing  
8 a person in proceedings upon a petition for a certificate of  
9 rehabilitation and pardon pursuant to Section 4852.08.

10 (9) A public defender or attorney of record when representing  
11 a person in a criminal case, or a parole, mandatory supervision, or  
12 postrelease community supervision revocation or revocation  
13 extension hearing, and when authorized access by statutory or  
14 decisional law.

15 (10) Any agency, officer, or official of the state when the local  
16 summary criminal history information is required to implement a  
17 statute, regulation, or ordinance that expressly refers to specific  
18 criminal conduct applicable to the subject person of the local  
19 summary criminal history information, and contains requirements  
20 or exclusions, or both, expressly based upon the specified criminal  
21 conduct.

22 (11) Any city, county, city and county, or district, or any officer  
23 or official thereof, when access is needed in order to assist the  
24 agency, officer, or official in fulfilling employment, certification,  
25 or licensing duties, and when the access is specifically authorized  
26 by the city council, board of supervisors, or governing board of  
27 the city, county, or district when the local summary criminal history  
28 information is required to implement a statute, regulation, or  
29 ordinance that expressly refers to specific criminal conduct  
30 applicable to the subject person of the local summary criminal  
31 history information, and contains requirements or exclusions, or  
32 both, expressly based upon the specified criminal conduct.

33 (12) The subject of the local summary criminal history  
34 information.

35 (13) Any person or entity when access is expressly authorized  
36 by statute when the local summary criminal history information  
37 is required to implement a statute, regulation, or ordinance that  
38 expressly refers to specific criminal conduct applicable to the  
39 subject person of the local summary criminal history information,

1 and contains requirements or exclusions, or both, expressly based  
2 upon the specified criminal conduct.

3 (14) Any managing or supervising correctional officer of a  
4 county jail or other county correctional facility.

5 (15) Local child support agencies established by Section 17304  
6 of the Family Code. When a local child support agency closes a  
7 support enforcement case containing summary criminal history  
8 information, the agency shall delete or purge from the file and  
9 destroy any documents or information concerning or arising from  
10 offenses for or of which the parent has been arrested, charged, or  
11 convicted, other than for offenses related to the parents having  
12 failed to provide support for the minor children, consistent with  
13 Section 17531 of the Family Code.

14 (16) County child welfare agency personnel who have been  
15 delegated the authority of county probation officers to access state  
16 summary criminal information pursuant to Section 272 of the  
17 Welfare and Institutions Code for the purposes specified in Section  
18 16504.5 of the Welfare and Institutions Code.

19 (17) A humane officer pursuant to Section 14502 of the  
20 Corporations Code for the purposes of performing his or her duties.  
21 A local agency may charge a reasonable fee sufficient to cover the  
22 costs of providing information pursuant to this paragraph.

23 (c) The local agency may furnish local summary criminal history  
24 information, upon a showing of a compelling need, to any of the  
25 following, provided that when information is furnished to assist  
26 an agency, officer, or official of state or local government, a public  
27 utility, or any entity, in fulfilling employment, certification, or  
28 licensing duties, Chapter 1321 of the Statutes of 1974 and Section  
29 432.7 of the Labor Code shall apply:

30 (1) Any public utility, as defined in Section 216 of the Public  
31 Utilities Code, which operates a nuclear energy facility when access  
32 is needed to assist in employing persons to work at the facility,  
33 provided that, if the local agency supplies the information, it shall  
34 furnish a copy of this information to the person to whom the  
35 information relates.

36 (2) To a peace officer of the state other than those included in  
37 subdivision (b).

38 (3) To a peace officer of another country.

39 (4) To public officers, other than peace officers, of the United  
40 States, other states, or possessions or territories of the United

1 States, provided that access to records similar to local summary  
2 criminal history information is expressly authorized by a statute  
3 of the United States, other states, or possessions or territories of  
4 the United States when this information is needed for the  
5 performance of their official duties.

6 (5) To any person when disclosure is requested by a probation,  
7 parole, or peace officer with the consent of the subject of the local  
8 summary criminal history information and for purposes of  
9 furthering the rehabilitation of the subject.

10 (6) The courts of the United States, other states, or territories  
11 or possessions of the United States.

12 (7) Peace officers of the United States, other states, or territories  
13 or possessions of the United States.

14 (8) To any individual who is the subject of the record requested  
15 when needed in conjunction with an application to enter the United  
16 States or any foreign nation.

17 (9) Any public utility, as defined in Section 216 of the Public  
18 Utilities Code, when access is needed to assist in employing  
19 persons who will be seeking entrance to private residences in the  
20 course of their employment. The information provided shall be  
21 limited to the record of convictions and any arrest for which the  
22 person is released on bail or on his or her own recognizance  
23 pending trial.

24 If the local agency supplies the information pursuant to this  
25 paragraph, it shall furnish a copy of the information to the person  
26 to whom the information relates.

27 Any information obtained from the local summary criminal  
28 history is confidential and the receiving public utility shall not  
29 disclose its contents, other than for the purpose for which it was  
30 acquired. The local summary criminal history information in the  
31 possession of the public utility and all copies made from it shall  
32 be destroyed 30 days after employment is denied or granted,  
33 including any appeal periods, except for those cases where an  
34 employee or applicant is out on bail or on his or her own  
35 recognizance pending trial, in which case the state summary  
36 criminal history information and all copies shall be destroyed 30  
37 days after the case is resolved, including any appeal periods.

38 A violation of any of the provisions of this paragraph is a  
39 misdemeanor, and shall give the employee or applicant who is

1 injured by the violation a cause of action against the public utility  
2 to recover damages proximately caused by the violation.

3 Nothing in this section shall be construed as imposing any duty  
4 upon public utilities to request local summary criminal history  
5 information on any current or prospective employee.

6 Seeking entrance to private residences in the course of  
7 employment shall be deemed a “compelling need” as required to  
8 be shown in this subdivision.

9 (10) Any city, county, city and county, or district, or any officer  
10 or official thereof, if a written request is made to a local law  
11 enforcement agency and the information is needed to assist in the  
12 screening of a prospective concessionaire, and any affiliate or  
13 associate thereof, as these terms are defined in subdivision (k) of  
14 Section 432.7 of the Labor Code, for the purposes of consenting  
15 to, or approving of, the prospective concessionaire’s application  
16 for, or acquisition of, any beneficial interest in a concession, lease,  
17 or other property interest.

18 Any local government’s request for local summary criminal  
19 history information for purposes of screening a prospective  
20 concessionaire and their affiliates or associates before approving  
21 or denying an application for, or acquisition of, any beneficial  
22 interest in a concession, lease, or other property interest is deemed  
23 a “compelling need” as required by this subdivision. However,  
24 only local summary criminal history information pertaining to  
25 criminal convictions may be obtained pursuant to this paragraph.

26 Any information obtained from the local summary criminal  
27 history is confidential and the receiving local government shall  
28 not disclose its contents, other than for the purpose for which it  
29 was acquired. The local summary criminal history information in  
30 the possession of the local government and all copies made from  
31 it shall be destroyed not more than 30 days after the local  
32 government’s final decision to grant or deny consent to, or approval  
33 of, the prospective concessionaire’s application for, or acquisition  
34 of, a beneficial interest in a concession, lease, or other property  
35 interest. Nothing in this section shall be construed as imposing  
36 any duty upon a local government, or any officer or official thereof,  
37 to request local summary criminal history information on any  
38 current or prospective concessionaire or their affiliates or  
39 associates.



1 (11) A public agency described in subdivision (b) of Section  
2 15975 of the Government Code, for the purpose of oversight and  
3 enforcement policies with respect to its contracted providers.

4 (d) Whenever an authorized request for local summary criminal  
5 history information pertains to a person whose fingerprints are on  
6 file with the local agency and the local agency has no criminal  
7 history of that person, and the information is to be used for  
8 employment, licensing, or certification purposes, the fingerprint  
9 card accompanying the request for information, if any, may be  
10 stamped “no criminal record” and returned to the person or entity  
11 making the request.

12 (e) A local agency taking fingerprints of a person who is an  
13 applicant for licensing, employment, or certification may charge  
14 a fee to cover the cost of taking the fingerprints and processing  
15 the required documents.

16 (f) Whenever local summary criminal history information  
17 furnished pursuant to this section is to be used for employment,  
18 licensing, or certification purposes, the local agency shall charge  
19 the person or entity making the request a fee which it determines  
20 to be sufficient to reimburse the local agency for the cost of  
21 furnishing the information, provided that no fee shall be charged  
22 to any public law enforcement agency for local summary criminal  
23 history information furnished to assist it in employing, licensing,  
24 or certifying a person who is applying for employment with the  
25 agency as a peace officer or criminal investigator. Any state agency  
26 required to pay a fee to the local agency for information received  
27 under this section may charge the applicant a fee sufficient to  
28 reimburse the agency for the expense.

29 (g) Whenever there is a conflict, the processing of criminal  
30 fingerprints shall take priority over the processing of applicant  
31 fingerprints.

32 (h) It is not a violation of this article to disseminate statistical  
33 or research information obtained from a record, provided that the  
34 identity of the subject of the record is not disclosed.

35 (i) It is not a violation of this article to include information  
36 obtained from a record in (1) a transcript or record of a judicial or  
37 administrative proceeding or (2) any other public record when the  
38 inclusion of the information in the public record is authorized by  
39 a court, statute, or decisional law.

(j) Notwithstanding any other law, a public prosecutor may, in response to a written request made pursuant to Section 6253 of the Government Code, provide information from a local summary criminal history, if release of the information would enhance public safety, the interest of justice, or the public's understanding of the justice system and the person making the request declares that the request is made for a scholarly or journalistic purpose. If a person in a declaration required by this subdivision willfully states as true any material fact that he or she knows to be false, he or she shall be subject to a civil penalty not exceeding ten thousand dollars (\$10,000). The requestor shall be informed in writing of this penalty. An action to impose a civil penalty under this subdivision may be brought by any public prosecutor and shall be enforced as a civil judgment.

(k) Notwithstanding any other law, the Department of Justice or any state or local law enforcement agency may require the submission of fingerprints for the purpose of conducting summary criminal history information record checks which are authorized by law.

(l) Any local criminal justice agency may release, within five years of the arrest, information concerning an arrest or detention of a peace officer or applicant for a position as a peace officer, as defined in Section 830, which did not result in conviction, and for which the person did not complete a postarrest diversion program or a deferred entry of judgment program, to a government agency employer of that peace officer or applicant.

(m) Any local criminal justice agency may release information concerning an arrest of a peace officer or applicant for a position as a peace officer, as defined in Section 830, which did not result in conviction but for which the person completed a postarrest diversion program or a deferred entry of judgment program, or information concerning a referral to and participation in any postarrest diversion program or a deferred entry of judgment program to a government agency employer of that peace officer or applicant.

(n) Notwithstanding subdivision (l) or (m), a local criminal justice agency shall not release information under the following circumstances:

(1) Information concerning an arrest for which diversion or a deferred entry of judgment program has been ordered without

1 attempting to determine whether diversion or a deferred entry of  
2 judgment program has been successfully completed.

3 (2) Information concerning an arrest or detention followed by  
4 a dismissal or release without attempting to determine whether the  
5 individual was exonerated.

6 (3) Information concerning an arrest without a disposition  
7 without attempting to determine whether diversion has been  
8 successfully completed or the individual was exonerated.

9 *SEC. 4. Section 2.5 of this bill incorporates amendments to*  
10 *Section 11105 of the Penal Code proposed by both this bill and*  
11 *Senate Bill 530. It shall only become operative if (1) both bills are*  
12 *enacted and become effective on or before January 1, 2014, (2)*  
13 *each bill amends Section 11105 of the Penal Code, and (3) this*  
14 *bill is enacted after Senate Bill 530, in which case Section 2 of this*  
15 *bill shall not become operative.*